

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

January 23, 2008

DIVISION ONE

Court convened at 9:00 a.m.

Present: Mallano, Acting P.J., Vogel (Miriam A.), J., Rothschild, J., Jackson, J. (Assigned) and S. Stahl, Deputy Clerk.

Each of the following:

B193121 People v. Lindberg & Ruiz
B194529 People v. McGee & Green
B195346 People v. Hill
B195478 People v. Brown
B195876 Lopez-Reid v. Lynwood Unified School District et al.
B196191 People v. Martin
B197341 People v. Munoz
B197646 People v. Clark
B198098 People v. Johnson
B198501 People v. Montgomery
B198736 People v. Whitley
B199961 DCFS v. Karla C.
B199997 DCFS v. Veronica V. and Jaime G.
B200466 People v. Estrada
B202928 Michael S. v. SCLA (DCFS, rpi)

Argument waived, cause submitted.

DIVISION ONE (continued)

B195682 People
 v.
 Cedillo

Merits:

Argued by Andrew Reed Flier for appellant and by Laura J. Hartquist, Deputy Attorney General, for respondent . Cause submitted.

Rothschild, J. leaves the bench.

B197520 Vargas
 v.
 Cedars-Sinai Medical Center etc.

Merits:

Argued by David Himelson for appellant and by Eric Volkert for respondent. Cause submitted.

Rothschild, J. returns to the bench.

B198035 People
 v.
 Anyssa L.

Merits:

Argued by Anne E. Fragasso for appellant and respondent waived argument. Cause submitted.

B197522 Perry
 v.
 Topping

Merits:

Argued by Tom Topping, appellant in propria persona and by Joshua N. Levine for respondent. Cause submitted.

Mallano, Acting P.J. leaves the bench.

DIVISION ONE (continued)

B195958 People
 v.
 Contreras

Merits:

Argued by Jeffery D. Gold for appellant and by David E. Madeo, Deputy Attorney General, for respondent. Cause submitted.

Mallano, Acting P.J. returns to the bench.

Vogel, J. leaves the bench.

B196431 Rosales et al.
 v.
 Supershutte Franchise Corporation et al.

Merits:

Argued by D. Wayne Jeffries for appellant and no appearance for respondent. Cause submitted.

B195551 Sherwood
 v.
 City of Los Angeles et al.

Merits:

Argued by Martin Robert Boggs, Deputy City Attorney, for appellants and by Gary Fullerton for respondent. Cause submitted.

Vogel, J. returns to the bench.

Jackson, J. (assigned) leaves the bench.

DIVISION ONE (continued)

B194135 Mayman
 v.
 Marlowe

Merits:

Argued by Joel A. Spivak for appellant and by David Scott Kadin for respondent. Cause submitted.

B197736 People
 v.
 Velasquez

Merits:

Argued by Vicken H. Hagopian for appellant and by Carl N. Henry, Deputy Attorney General, for respondent. Cause submitted.

Jackson, J. (assigned) returns to the bench.

B194524 Generl Electric Capital Corporation
 v.
 Huxley

Merits:

Argued by Irwin Chasalow for appellant and by Stephen M. Spinella for respondent. Cause submitted.

Vogel, J. leaves the bench.

DIVISION ONE (continued)

B192055 Sosa
 v.
 Rockpointe Homeowners Association et al.

Merits:

Argued by Steven E. Young for appellant; by Charles V. Berwanger for respondent Sky Blue Environmental and by Robert H. Wright for respondent Rockpointe Homeowners Association. Cause submitted.

Court adjourned.

B190475 Tri-Tech Restoration Co., Inc., (Not for Publication)
 v.
 Bradley Landis et al.

The judgment is reversed and on remand the trial court is directed to enter judgment on Tri-Tech Restoration Co.'s complaint in favor of Bradley and Terry Landis. Bradley and Terry Landis are entitled to a new trial on their cross-complaint. Bradley and Terry Landis are entitled to their costs on appeal. Any request by Bradley and Terry Landis for appellate costs and attorney fees shall be presented to the trial court on remand. Because the judgment is reversed, the award of costs and attorney fees to Tri-Tech Restoration Co. is vacated.

Mallano, Acting P.J.

We concur: Rothschild, J.
 Jackson, J. (Assigned)

DIVISION TWO

B196284 People (Not for Publication)

V.

Howard

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B197896 People (Certified for Publication)

V.

Davidson

The order appealed from is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Doi Todd, J.

B195792 People (Not for Publication)

V.

Reese

The judgment is affirmed.

Ashmann-Gerst, J.

We concur: Boren, P.J.
 Chavez, J.

DIVISION THREE

B198968 Los Angeles County, D.C.S. (Not for Publication)
v.
Stacy V.

The order from which Mother has appealed is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B200294 Los Angeles County, D.C.S. (Not for Publication)
v.
Shaunee N.S.

The judgment is affirmed.

The order terminating Mother's parental rights as to Justin is affirmed. The order terminating Mother's parental rights as to Jushawan is reversed and the cause is remanded for the limited purpose of compliance, for Jushawan, with the ICWA notice requirements with respect to the Choctaw Nation of Oklahoma. If, after proper notice, the Choctaw Nation of Oklahoma asserts its right under the ICWA to intervene in this matter in state court with respect to Jushawan, or to obtain jurisdiction over the proceedings by transfer to the tribal court with respect to him, the cause as to him should proceed in accordance with that election. If there is no intervention or assertion of jurisdiction after proper notice and application of statutory time limits, then the juvenile court's order terminating Mother's parental rights as to Jushawan shall be reinstated. The Department is to notify this court forthwith if the Choctaw Nation of Oklahoma asserts its right to intervene or obtain jurisdiction over the proceedings as to Jushawan or the juvenile court reinstates the order terminating Mother's parental rights as to him.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (continued)

B198511 Los Angeles County, D.C.S. (Not for Publication)

v.

Vera C. and Darnell M.

The order terminating the parents' parental rights is reversed and the cause is remanded for compliance with the notice requirements of the ICWA. If, after proper notice, a Tribe asserts its right under the ICWA to intervene in this matter in state court, or to obtain jurisdiction over the proceedings by transfer to the Tribal court, the cause shall proceed in accordance with the Tribe's election. If there is no intervention or assertion of jurisdiction by any Tribe after proper notice, then the juvenile court's order terminating parental rights shall be reinstated. The Department is to notify this court forthwith if a Tribe asserts its right to intervene or obtain jurisdiction over the proceedings or the juvenile court reinstates its order.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B194137 People (Not for Publication)

v.

Green

The judgment is modified by staying the 25-year to life sentences on counts two and five. In all other respects the judgment is affirmed. The superior court is directed to prepare an amended abstract of judgment to reflect this modification, and to forward a copy to the Department of Corrections and Rehabilitation.

Manella, J.

We concur: Epstein, P.J.
 Suzukawa, J.

DIVISION FOUR (continued)

B203284 Rashawn B. (Not for Publication)

v.
Superior Court, Los Angeles County
(DCFS, r.p.i.)

The petition is granted. Let a peremptory writ of mandate issue directing the juvenile court to vacate its order terminating reunification services for petitioner and setting a section 366.26 hearing. The court is directed to enter a new and different order resuming reunification services for petitioner consistent with the views expressed in this opinion.

Manella, J.

We concur: Epstein, P.J.
Suzukawa, J.

B198760 Romig
v.
Chen

Filed order denying petition for rehearing.

DIVISION FIVE

B197403 People (Not for Publication)

V. Lomel Hamilton

The judgment is affirmed.

Armstrong, J.

I concur: Turner, P.J.
I dissent: Kriegler, J. (Opinion)

DIVISION SIX

B195397 People v. Dwyer (Not for Publication)

The judgment is affirmed.

Coffee, J.

We concur: Yegan, Acting P.J.
Perren, J.

B188084 People (Not for Publication)
v.
Ervin

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

[illegible]

The judgment is affirmed.

Perren, J.

We concur: Gilbert, P.J.
Coffee, J.

DIVISION SIX (continued)

B199935 Ventura County Human Services Agency (Not for Publication)
v.
Dori C.,

The judgment (order terminating parental rights) is affirmed.

Perren, J.

We concur: Yegan, Acting P.J.
 Coffee, J.

DIVISION SEVEN

B196415 People (Certified for Partial Publication)
v.
Reyes et al.,

As to Reyes, we affirm the judgment. As to Ginez, we affirm the judgment, but we remand the case to the trial court with directions 91) to prepare an amended abstract of judgment that deletes the fine under section 1202.45 and (2) to forward the amended abstract of judgment to the Department of Corrections.

Wiley, J. (Assigned)

We concur: Perluss, P.J.
 Zelon, J.

DIVISION EIGHT

B191389 People (Not for Publication)
v.
Morales

The judgment is affirmed.

Rubin, J.

I concur: Cooper, P.J.

B194755 Krishnan, (Not for Publication)
v.
Cedars-Sinai Medical Center et al.

For the reasons set forth above, the judgment is affirmed. Respondents shall recover their appellate costs.

Rubin, J.

We concur: Cooper, P.J.
Flier, J.

B190891 People (Not for Publication)
v.
Garcia and Marquez

The judgments of conviction against appellants Daniel Marquez and Johnny Scott Garcia are reversed in their entirety and the matter is remanded for retrial.

Rubin, J.

We concur: Cooper, P.J.
Flier, J.

January 23, 2008 (Continued)

DIVISION EIGHT (continued)

B194605 Gilmer, (Certified for Publication)
v.
Ellington

The judgment is affirmed. Respondent shall recover its costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Flier, J.

B193031 Rothrock (Certified for Publication)
v.
Rothrock

The orders are affirmed. Respondent is to recover his costs on appeal.

Flier, J.

We concur: Cooper, P.J.
Rubin, J.

B194189 Stiebinger, (Not for Publication)
v.
Allen et al.,

The order granting the special motion to strike the complaint is reversed and the cause is remanded to the trial court with instructions to vacate the order and subsequent judgment of dismissal and to enter a new order denying the motion. James Stiebinger is to recover his costs on appeal.

Egerton, J. (Assigned)

We concur: Cooper, P.J.
Flier, J.

January 23, 2008 (Continued)

DIVISION EIGHT (continued)

B199069 People
 v.
 Knott, Jr.,

Filed order modifying opinion. (No change in the judgment)